

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

TRACY SCHUMPERT,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 17-CV-125-JED-FHM
	)	
WARREN THEATRES, LLC, et al.,	)	
	)	
Defendants.	)	

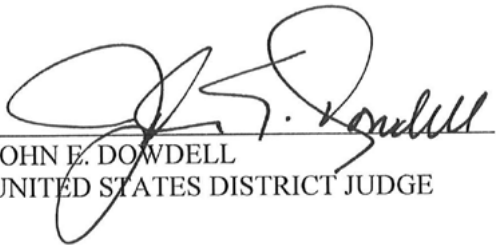
**OPINION AND ORDER**

In this diversity action, plaintiff, Tracy Schumpert, alleges that she was a business invitee to the Warren Theater in Broken Arrow, Oklahoma and was injured as a result of negligence. As plaintiff was exiting one of the theater’s Director’s Suites, she fell on a set of steps, resulting in injuries to her right ankle, right shoulder, an elbow, eye, and head. For her negligence claim, she alleges that the defendants, who are the theater’s owners and its architect, knew or should have known of the faulty design and installation, and unsafe condition, of the step placement and lack of a handrail. The architect, defendant Spangenberg Phillips Tice, LLC (Spangenberg), moves for dismissal. (Doc. 14). Spangenberg argues that plaintiff did not comply with *Okla. Stat.* tit. 12, § 19.1, which provides that plaintiffs in certain negligence actions “shall attach to the petition an affidavit” reflecting consultation with a qualified expert who has provided a written opinion that the acts alleged by plaintiff constitute negligence.

Spangenberg claims that § 19.1 applies because it is substantive law which should apply in this diversity action. Plaintiff claims that § 19.1 does not apply because it is procedural law. The undersigned, as well as other judges in this District, have previously determined that § 19.1 does not apply in federal court actions. *See Sanders v. Glanz*, 138 F. Supp. 3d 1248, 1261 (N.D. Okla.

2015); *see also Doe v. Defendant A*, No. 12-CV-392-JHP-TLW, 2012 WL 6694070, at \*8 (N.D. Okla. Dec. 21, 2012) (unpublished); *Ipock v. Manor Care of Tulsa OK, LLC*, No. No. 17-CV-106-CVE-TLW, 2017 WL 1289865 (N.D. Okla. April 4, 2017) (unpublished). The Court again adopts its reasoning and ruling in *Sanders*, as well as the related holdings in *Doe* and *Ipock*. Thus, Spangenberg's Motion to Dismiss (Doc. 14) is **denied**.

SO ORDERED this 17th day of August, 2017.



JOHN E. DOWDELL  
UNITED STATES DISTRICT JUDGE